

REMARKS

Applicant thanks the Examiner for review of the present application, and the courtesy of the time the Examiner provided on November 14, 2005, to discuss the outstanding final Office Action of June 24, 2005, and the Advisory Action of October 3, 2005.

The Advisory Action of October 3, 2005, indicates that the remarks filed September 21, 2005, submitted in response to the final Official Action of June 24, 2005, have been considered, but do not place the application in condition for allowance. The final Office Action of June 24, 2005, allowed Claim 19, objected to Claims 3-5, 8-12, and 15-17, and rejected Claims 1, 2, 6, 7, 14 and 18. Claim 13 has been cancelled. The Advisory Action indicated that Claim 19 and now also Claim 18 are allowed, Claim 2 is now only objected to, rather than rejected, and Claims 3-5, 8-12, and 15-17 are objected to as depending from a rejected claim.

On November 14, 2005, Examiner Stephen M. Dagosta and attorney for Applicant, Christopher J. Gegg, conducted a telephone interview regarding the differences between the final Office Action and the Advisory Action with respect to Claims 2 and 18 and the rejection, rather than objection, of Claim 14. In particular, it was confirmed that the Examiner now considers both Claims 2 and 18 to present allowable subject matter and that Claim 14 should only have been objected to, rather than rejected, because Claim 14 depends from Claim 2, which is only objected to in the Advisory Action. In summary, the Advisory Action should have indicated that Claims 18 and 19 are allowed, Claims 2-5, 8-12, and 14-17 are objected to as depending from a rejected claim, and Claims 1, 6, and 7 are rejected.

In view of the Advisory Action, the Office Action of June 24, 2005, rejected Claims 1, 6 and 7 under 35 U.S.C. § 103(a) as being unpatentable over International Patent Application WO 97/47117 to Hawker et al. (hereinafter “the Hawker application”) in view of U.S. Patent 6,292,563 to Clark et al. (hereinafter “the Clark patent”) and further in view of U.S. Patent 5,537,472 to Estevez-Alcolado et al. (hereinafter “the Estevez-Alcolado patent”). Applicant provides the following remarks in response to the rejections of the Office Action and submits that the rejections of Claims 1, 6, and 7 under § 103(a) are traversed for the reasons which follow. Subsequent to the Response of September 21, 2005, which has been considered, and in view of the Advisory Action and telephone interview of November 14, 2005, Applicant does not believe any additional rejections are outstanding at this time which require response by the Applicant.

Applicant has also added independent Claim 20 and dependent Claims 21-22 depending from Claim 20, and provide that Claim 20 recites the limitations of independent Claim 1, and further adds that the attenuation of the acoustic audio path is caused by a physical path limitation. Dependent Claims 23-25 depend from Claim 1.

Rejections Under 35 U.S.C. § 103(a)

With regard to the rejection of Claims 1, 6, and 7 as being unpatentable over the Hawker application in view of the Clark and Estevez-Alcolado patents, the Office Action of June 24, 2005, at page 2 cites page 6, lines 30-36 and page 7, lines 4-30 of the Hawker application to support that “Hawker teaches a portable (telecommunications) device (figure 1)” in which “the audio path between the transducer and the outlet for the egress of an acoustic signal when in the loudspeaker mode being less attenuated than the audio path between the transducer and the outlet for the egress of an acoustic signal when in the earpiece mode.” Applicant notes that the citations to the Hawker application relate to increasing the output of the audio amplifier to raise the level of the audio signal. Applicant further notes that the Examiner correctly recognizes that the Hawker application is silent on an acoustical audio path being attenuated such that an acoustical audio path which conducts the acoustical signal as sound waves between the transducer and the outlet for the egress of an acoustic signal when in the loudspeaker mode also is less attenuated than an acoustical audio path which conducts an acoustical signal as sound waves between the transducer and the outlet for the egress of the acoustical signal when in the earpiece mode.

Accordingly, the Office Action further cites to the Clark and Estevez-Alcolado patents to support the teaching of attenuation of an acoustical audio path. However, the proposed combination of the Clark and Estevez-Alcolado patent do not cure the admitted deficiency of the Hawker application. The Clark patent merely teaches the amplification of the audio signal by an amplification circuit to provide amplifier gain. *See Fig. 4 and col. 3, ll. 1-34.* The Estevez-Alcolado patent merely teaches an acoustic baffle to enhance the acoustics of the speakerphone. *See col. 4, ll. 15-20.*

Applicant recognizes from the Office Action that the Examiner broadly interprets attenuation to mean “volume control.” However, Applicant points out that even if attenuation is broadly interpreted to mean volume control, the language of the claims is such as to distinguish

between attenuation of an acoustic audio path and attenuation (volume control) of an audio signal, the former as claimed and the later as disclosed by all of the Hawker application and the Clark and Estevez-Alcolado patents. Applicant points out that the claimed subject matter recites attenuation of an acoustic audio path, and not that the audio signal is attenuated (volume controlled) which is transmitted in the acoustic audio path. Applicant submits that a person of ordinary skill in the art, even interpreting attenuation to mean volume control, would not arrive at the claimed subject matter by the combination of the Hawker application and the Clark and/or Estevez-Alcolado patents.

Further Applicant recognizes from the Advisory Action that the Examiner broadly interprets attenuation such that attenuation can be both good and bad, thereby encompassing “enhancing” an audio signal as taught by the Estevez-Alcolado patent. The Advisory Action provides as an example of this broad interpretation of attenuation to “attenuate noise which increases voice fidelity.” Applicant submits that such an interpretation of attenuating noise would not be considered by a person of ordinary skill in the art as equivalent to attenuation of an acoustic audio path and that a person of ordinary skill in the art would not consider the teachings of the Estevez-Alcolado patent to disclose anything relevant to the claimed attenuation of sound waves within an acoustical audio path which conducts an acoustic signal as sound waves between a transducer and an outlet for egress of the acoustic signal. Applicant points out that the claimed subject matter specifically provides that attenuation is of an acoustic audio path and that the acoustic audio path is between a transducer and an outlet for egress of an acoustic signal.

Applicant submits that the reliance upon the Clark and Estevez-Alcolado patents for teaching subject matter that would motivate a person of ordinary skill in the art to modify the Hawker application to arrive at the subject matter of independent Claims 1 and 7 is not explained, even by the broad interpretations of attenuation set forth in the Office Action and Advisory Action. The teachings of Hawker et al., Clark et al. and Estevez-Alcolado et al. are collectively silent regarding an acoustical audio path which conducts the acoustical signal as sound waves between the transducer and the outlet for the egress of an acoustic signal and further does not disclose that there is less attenuation of the acoustical signal as sound waves between the transducer and the outlet in the loudspeaker mode and hands-free modes as recited in independent Claims 1 and 7. Applicant submits that the remarks above traverse the rejections of independent Claims 1 and 7. Dependent Claim 6 further limits Claim 1 in reciting that the

device is a portable telecommunications device; accordingly, Applicant submits that the rejection of Claim 6 is traversed for the reasons set forth above with respect to Claim 1.

In view of the foregoing remarks, it is submitted that each of independent Claims 1 and 7 and dependent Claim 6 are believed to be in condition for allowance, as well as dependent Claims 2-6, 8-17, and 23-25 respectively depending from Claims 1 and 7. Accordingly, reconsideration for allowance of these claims is, therefore, respectfully requested.

Conclusion

In view of the remarks presented above, Applicants submit that all of the pending Claims 1-25 of the present application are in condition for allowance. Accordingly, entry of the amendments and allowance of the application are respectfully requested. In order to expedite the examination of the present application, the Examiner is encouraged to contact Applicant's undersigned attorney in order to resolve any remaining issues.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper, such as the fees for a request for an extension of time. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

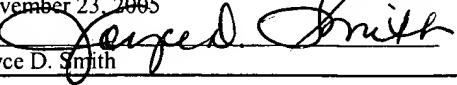
Respectfully submitted,


Christopher J. Gegg
Registration No. 50,857

CUSTOMER NO. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111
CLT01/4767893v1

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on November 23, 2005


Joyce D. Smith